

DOMESTIC VIOLENCE DEFINITION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the definition of domestic violence offenses.

Highlighted Provisions:

This bill:

- ▶ adds an offense to the list of offenses in the definition of domestic violence.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-36-1, as last amended by Laws of Utah 2018, Chapter 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-36-1** is amended to read:

77-36-1. Definitions.

As used in this chapter:

- (1) "Cohabitant" means the same as that term is defined in Section **78B-7-102**.
- (2) "Department" means the Department of Public Safety.
- (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter



28 3, Divorce.

29 (4) "Domestic violence" or "domestic violence offense" means any criminal offense
30 involving violence or physical harm or threat of violence or physical harm, or any attempt,
31 conspiracy, or solicitation to commit a criminal offense involving violence or physical harm,
32 when committed by one cohabitant against another. "Domestic violence" or "domestic
33 violence offense" also means commission or attempt to commit, any of the following offenses
34 by one cohabitant against another:

- 35 (a) aggravated assault, as described in Section 76-5-103;
- 36 (b) assault, as described in Section 76-5-102;
- 37 (c) criminal homicide, as described in Section 76-5-201;
- 38 (d) harassment, as described in Section 76-5-106;
- 39 (e) electronic communication harassment, as described in Section 76-9-201;
- 40 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
41 76-5-301, 76-5-301.1, and 76-5-302;
- 42 (g) mayhem, as described in Section 76-5-105;
- 43 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
44 Section 76-5b-201, Sexual exploitation of a minor -- Offenses;
- 45 (i) stalking, as described in Section 76-5-106.5;
- 46 (j) unlawful detention or unlawful detention of a minor, as described in Section
47 76-5-304;
- 48 (k) violation of a protective order or ex parte protective order, as described in Section
49 76-5-108;
- 50 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
51 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,
52 Part 3, Robbery;
- 53 (m) possession of a deadly weapon with criminal intent, as described in Section
54 76-10-507;
- 55 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
56 person, building, or vehicle, as described in Section 76-10-508;
- 57 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
58 conduct is the result of a plea agreement in which the defendant was originally charged with a

59 domestic violence offense otherwise described in this Subsection (4), except that a conviction
60 of disorderly conduct as a domestic violence offense, in the manner described in this
61 Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18
62 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

- 63 (p) child abuse, as described in Section [76-5-109.1](#);
- 64 (q) threatening use of a dangerous weapon, as described in Section [76-10-506](#);
- 65 (r) threatening violence, as described in Section [76-5-107](#);
- 66 (s) tampering with a witness, as described in Section [76-8-508](#);
- 67 (t) retaliation against a witness or victim, as described in Section [76-8-508.3](#);
- 68 (u) unlawful distribution of an intimate image, as described in Section [76-5b-203](#);
- 69 (v) sexual battery, as described in Section [76-9-702.1](#);
- 70 (w) voyeurism, as described in Section [76-9-702.7](#);
- 71 (x) damage to or interruption of a communication device, as described in Section
72 [76-6-108](#); [or]
- 73 (y) an offense described in Section [77-20-3.5](#)[~~]~~; or
- 74 (z) distribution of an intimate image, as described in Section [76-5b-203](#).

75 (5) "Jail release agreement" means the same as that term is defined in Section
76 [77-20-3.5](#).

77 (6) "Jail release court order" means the same as that term is defined in Section
78 [77-20-3.5](#).

79 (7) "Marital status" means married and living together, divorced, separated, or not
80 married.

81 (8) "Married and living together" means a couple whose marriage was solemnized
82 under Section [30-1-4](#) or [30-1-6](#) and who are living in the same residence.

83 (9) "Not married" means any living arrangement other than married and living together,
84 divorced, or separated.

85 (10) "Protective order" includes an order issued under Subsection [77-36-5.1](#)(6).

86 (11) "Pretrial protective order" means a written order:

87 (a) specifying and limiting the contact a person who has been charged with a domestic
88 violence offense may have with an alleged victim or other specified individuals; and

89 (b) specifying other conditions of release pursuant to Subsection [77-20-3.5](#)(3),

90 Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

91 (12) "Sentencing protective order" means a written order of the court as part of
92 sentencing in a domestic violence case that limits the contact a person who has been convicted
93 of a domestic violence offense may have with a victim or other specified individuals pursuant
94 to Sections 77-36-5 and 77-36-5.1.

95 (13) "Separated" means a couple who have had their marriage solemnized under
96 Section 30-1-4 or 30-1-6 and who are not living in the same residence.

97 (14) "Victim" means a cohabitant who has been subjected to domestic violence.